

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2149*

House Bill No. 2850

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following as a new section:

(a) The department of safety shall create a handgun safety course reimbursement program for the purpose of allowing a resident of this state to participate, at minimal cost, in a handgun safety course approved by the department. A resident of this state may participate in a handgun safety course under this reimbursement program one (1) time.

(b) The program must:

(1) Entitle a resident of this state to participate in a handgun safety course approved by the department of safety and pay only any expense of the course that exceeds thirty dollars (\$30.00);

(2) Establish a process for an entity providing an approved handgun safety course to a resident of this state to seek payment from the department in the amount of thirty dollars (\$30.00) as reimbursement for the cost of the resident's participation in the course upon verification by the department that the resident participated in the course and that the resident has not previously participated in a handgun safety course pursuant to this section; and

(3) Create a process for the department to verify the attendance of a resident of this state at an approved handgun safety course provided by the entity seeking reimbursement. As part of the verification process, the department



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shall not require the social security number of any person taking an approved handgun safety course.

(c)

(1) A licensed federal firearms dealer in this state shall display in a prominent location, including all entrances primarily used by persons entering the property, building, or portion of the property or building where firearms are sold, a sign measuring at least eight (8) inches wide and ten (10) inches high and containing the following information:

HANDGUN SAFETY TRAINING

THE STATE OF TENNESSEE WILL PAY \$30.00

YOUR COST: _____

COURSE AVAILABLE AT

(NAME OF ENTITY PROVIDING THE COURSE)

(ADDRESS OF ENTITY PROVIDING THE COURSE)

(TELEPHONE NUMBER OF ENTITY PROVIDING COURSE)

HANDGUN PURCHASE NOT REQUIRED

(2) A licensed federal firearms dealer may also provide the information contained in the sign required pursuant to subdivision (c)(1) in the form of a flyer.

(3) The department shall provide information on approved handgun safety training courses provided to residents of this state at minimal cost pursuant to this section on its website.

SECTION 2. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 3. The department of safety is authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. For purposes of promulgating rules and forms, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2022, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

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Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2763

House Bill No. 2350*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 27, is amended by adding the following
as a new chapter:

27-10-101.

(a) This chapter is known and may be cited as the "Appellate Courts
Improvements Act of 2022."

(b) As used in this chapter:

(1) "Adjudicator" means a justice, judge, chancellor, or any other person
who is granted authority by the state to adjudicate a case or controversy of any
kind between claimants who have adverse or varying claims as to how rule of law
requires the case or the controversy or the dispute be resolved;

(2) "AOC" means the administrative office of the courts;

(3) "Appearance of undermined neutrality" or "appearance of
compromised neutrality" means a state of mind of an adjudicator who is
disqualified to adjudicate an assigned case;

(4) "Assigned case" means a case, controversy, or dispute which has
been filed with a court or an administrative agency assigned to an adjudicator to
adjudicate how the rule of law requires the case, controversy, or dispute be
resolved;

(5) "Case" has the same meaning as the terms controversy and dispute;



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(6) "Cold Neutrality" or "neutrality" means the mindset, the appearance of which must never be in doubt, that all adjudicators, in every case, are influenced in adjudicating by absolutely nothing other or more than application of the unvarnished, undiminished, and unenhanced rule of law to nothing other or more than the unvarnished, undiminished, and unenhanced facts found no place other than the evidence and stipulated by the parties or nonparty claimants presented in the assigned case, without regard for the results or consequence of applying the unvarnished, undiminished, and unenhanced rule of law to the unvarnished, undiminished, and unenhanced facts found from no place other than the evidence presented in the assigned case;

(7) "Common law" means, without regard to the date first pronounced or last applied, all the common law of Tennessee not explicitly and officially repealed by an enacted statute of the general assembly or explicitly and officially overruled by a published holding of the Tennessee supreme court or the United States supreme court that a particular common law or unrepealed statute is unconstitutional;

(8) "Court" is a duly constituted court of law or any other body politic with adjudicatory obligations granted by the state;

(9) "Former adjudicator" means a person who, for the immediately preceding seven (7) years has been completely inactive as an adjudicator, including not serving as a special judge, member of the board of professional responsibility, or any other capacity as part of Tennessee's judiciary;

(10) "Influenced" means a distraction which, reasonably, could create a doubt in the minds of neutral third persons as to whether an adjudicator might adjudicate or might have adjudicated an assigned case without an adjudicator's pre-case state of mind coloring an adjudication and, thereby, mitigating the

constitutionally required appearance of cold neutrality, prerequisite for any adjudicator to be qualified to adjudicate the assigned case;

(11) "Ipse dixit" means a thought expressed, in writing or orally, for which there is no authority except the words of the person expressing the thoughts;

(12) "Litigant" means trial court plaintiffs, defendants, or claimants of any other kind or description and all appellants and appellees;

(13) "Pre-case state of mind" means a state of mind of an adjudicator, existing before the adjudicator is assigned a case, which, considering normal human foibles of normal humans, reasonably, could cause neutral third persons to have a doubt about the capability of any adjudicator, being a normal human, with the subject pre-case state of mind, to adjudicate the assigned case uninfluenced by the adjudicator's pre-case state of mind;

(14) "Res" except when used in the term *res judicata*, means any tangible or intangible, choate or inchoate thing in existence which is a benefit or a detriment to certain persons, in contrast to nothingness which has no possibility of benefit or detriment to any persons;

(15) "Result-oriented adjudication" means a method of adjudication, in contradiction and contrast to principled decision-making, by which an adjudicator adjudicates to achieve a result and justify the result by selectively picking precedents or facts and selectively failing to acknowledge the existence of other precedents and facts to create a facade that the result adjudicated is a result consistent with rule of law;

(16) "Rule of law" means principled decision-making by application of rigid, inflexible, strictly construed, prevailing common law and all unrepealed statutes of the state, without regard for the results or consequences of applying, rigidly, inflexibly, strictly, and undeviatingly, the common law and unrepealed statutes of the state; and

(17) "*Williams v. Pennsylvania*" means the majority opinion in *Williams v. Pennsylvania*, 579 U.S. 1 (2016), uncompromised by the dissenting opinions, of the United States supreme court, as published on June 9, 2016, unmitigated, enhanced, or enlightened by any opinions of any court, inclusive of the United States supreme court and all Tennessee courts, or any comment since June 9, 2016.

27-10-102.

Applying the holding in *Williams v. Pennsylvania*, strictly and broadly construed, no adjudicator is qualified to adjudicate a case, if there is an appearance of undermined neutrality, as described by the United States supreme court in *Williams v. Pennsylvania*.

27-10-103.

Because only the appearance, as opposed to actuality, of neutrality is the all-determinative factor in assessing whether an adjudicator is or was qualified to adjudicate a case, whether an adjudicator adjudicates with actual neutrality is irrelevant in determining whether a disqualified adjudicator might, in the future, or has, in the past, adjudicated with the appearance of undermined neutrality.

27-10-104.

(a) The appearance of undermined neutrality of an adjudicator is determined by any credible information, with weight and reliability equal to or greater than the information relied on by the United States supreme court to disqualify chief justice Castille, in *Williams v. Pennsylvania*.

(b) Whether information is credible enough to disqualify an adjudicator, for an appearance of undermined neutrality, from adjudicating an assigned case is not measured by whether the information is, would be, or would have been admissible under the Tennessee Rules of Evidence.

(c) An adjudication by an adjudicator who has adjudicated with an appearance of undermined neutrality is an ipse dixit of the adjudicator which has no force or effect as emanating from a court.

(d) An adjudication by an adjudicator who has adjudicated with an appearance of undermined neutrality is not an order or a judgment of a court or other adjudicatory body, irrespective of whether the adjudication appears on a paper signed by an adjudicator bearing the seal or caption of a court and is filed in the official records of a court.

(e) All, without exception, adjudications by an adjudicator who has adjudicated with an appearance of undermined neutrality are egregious non-judicial acts. To the extent that *Cook v. State*, 606 S.W.3d 247, 254 (Tenn. 2020) holds or intimates that an adjudication can be both an adjudication by an adjudicator with an undermined neutrality and non-egregious, *Cook v. State*, is overruled.

(f) Adjudications by an adjudicator who has adjudicated with an appearance of undermined neutrality is the same as an adjudication by a court which had no subject matter jurisdiction.

(g) Because, as with adjudications by adjudicators for courts that have no subject matter jurisdiction, the merits of a case on appeal are irrelevant if the case was adjudicated by an adjudicator with an appearance of undermined neutrality.

(h) Whether an adjudication was adjudicated by an adjudicator with an appearance of undermined neutrality is a determination by all appellate courts of first and foremost importance in all appeals.

(i) The right of every litigant, in all civil and criminal cases, to be adjudged by an adjudicator who adjudicates with no appearance of undermined neutrality is a structural constitutional right of both the state and the litigant, and neither the state nor a litigant can waive or otherwise forego the right to be adjudged by an adjudicator who might or who has adjudicated with an appearance of undermined neutrality, the same as no

litigant can empower a court with no subject matter jurisdiction, by waiver or consent, with subject matter jurisdiction.

27-10-105.

(a) Recusal motions are abolished in all courts.

(b) The possibility of an appearance of undermined neutrality, in the first instance, is a private self-assessment determination by the adjudicator assigned a case.

(c) The private assessment required by subsection (b) is for the purpose of the adjudicator deciding whether the adjudicator, based on the standards in *Williams v. Pennsylvania*, strictly and broadly construed, has a pre-case state of mind formed by any dispositions, inclusive of sympathies, predilections, persuasions, preferences, personal opinions, convictions, or prior life experiences, caused by any type of experience or derived from any source, all of which, if known to the public, could cause any doubt on the part of neutral third persons that the adjudicator, deliberately or inadvertently, might be influenced by the pre-case state of mind to view the issues of law or the evidence colored by the pre-case state of mind in a way differently than issues of law and the evidence would be viewed if the pre-case state of mind of the adjudicator did not exist.

(d) Because the private assessment required by subsection (b) is not concerned with the actuality of cold neutrality but merely the appearance of any doubt of neutral third persons, the self-assessment by the adjudicator that the adjudicator is capable of setting aside pre-case state of mind and adjudicate with cold neutrality is a nonfactor and is not a consideration in the adjudicator's self-assessment.

(e) The purpose of disqualifying adjudicators who have an appearance of undermined neutrality is to ensure against adjudicators adjudicating by result-oriented adjudication methods instead of principled decision-making adjudication methods.

27-10-106.

(a) Pre-case dispositions, inclusive of sympathies or predilections or persuasions or preferences or personal opinions or convictions, favorable or unfavorable, about a litigant or a lawyer for a litigant is only one (1), from among enumerable dispositions, inclusive of sympathies, predilections, persuasions, preferences, personal opinions, or convictions, which possibly may disqualify an adjudicator from adjudicating a case because of an appearance of undermined neutrality.

(b) Pre-case dispositions, inclusive of sympathies, predilections, persuasions, preferences, personal opinions, or convictions, of most concern in the determination of whether an adjudicator is disqualified by an appearance or the possibility of an appearance of undermined neutrality are pre-case dispositions concerning the rule of law or the application of rule of law to the assigned case or the result and consequences of applying rule of law to the issues presented by an assigned case.

27-10-107.

If, on self-assessment, pursuant to §§ 27-10-102 – 27-10-106, an adjudicator concludes that there is cause that an appearance of undermined neutrality might occur, if the adjudicator adjudicates the assigned case, or for any other reason deemed sufficient to the self-assessing adjudicator, the self-assessing adjudicator is duty-bound to withdraw from adjudicating the assigned case before adjudicating the assigned case or any part of the assigned case.

27-10-108.

An adjudicator who, pursuant to § 27-10-107, withdraws from adjudication of an assigned case is not obligated to give a reason for the withdrawal but may state the reasons.

27-10-109.

(a) If an adjudicator who, after the self-assessment, pursuant to § 27-10-105, decides not to withdraw, the adjudicator shall state, in a writing filed in the record of the

assigned case, titled adjudicator's neutrality affirmance, with as much or as little explanation as the adjudicator wishes to include, signed by the adjudicator indicating that the adjudicator has considered the issues to be adjudicated in the assigned case and concluded that the adjudicator has no pre-case state of mind that, reasonably considered by neutral third persons, might possibly appear to such neutral third persons to create any doubt that the adjudicator's cold neutrality, might be undermined in adjudicating the assigned case, subject to the provisions of §§ 27-10-112 – 27-10-113.

(b) Until proven to the contrary, the statements in the adjudicator's neutrality affirmance must be taken as truthful and accurate.

(c) If, for any reason, articulated or unarticulated, after the adjudicator's neutrality affirmance is signed and filed, the adjudicator decides to withdraw from the assigned case, this is the sole, unfettered, and absolute right of the adjudicator.

27-10-110.

If an adjudicator, after the self-assessment, has signed and filed the adjudicator's neutrality affirmance, thereafter, in the course of adjudicating the case, is made aware of an issue unanticipated at the time the adjudicator signed and filed the adjudicator's neutrality affirmance which, if known to the adjudicator, at the time the self-assessment, would have prevented the adjudicator from signing and filing the adjudicator's neutrality affirmance, the adjudicator shall immediately be disqualified as the adjudicator of the assigned case and shall immediately withdraw from further adjudication of the assigned case.

27-10-111.

Until an adjudicator signs and files the adjudicator's neutrality affirmance, the adjudicator is not qualified to adjudicate an assigned case.

27-10-112.

(a) If, after an adjudicator signs and files the adjudicator's neutrality affirmance, a litigant, in good faith and under the penalty of perjury, who considers that the signed and

filed adjudicator's neutrality affirmance should be reviewed by neutral third parties may file in the record of the assigned case a document titled "litigant's objection to adjudicator's neutrality affirmance" specifying, in writing and in detail, what information the litigant possesses or has access to that caused the litigant to file the litigant's request for review.

(b) Until proven to the contrary, the statements in the litigant's request for review must be taken as truthful and accurate.

(c) If, for any reason, articulated or unarticulated, after the litigant's objection to the adjudicator's neutrality affirmance is signed and filed, the litigant decides to withdraw the litigant's objection to the adjudicator's neutrality affirmance, this is the sole, unfettered, and absolute right of the litigant and the withdrawal is a recantation of the litigant's objection to the adjudicator's neutrality affirmance. The litigant must not suffer a penalty for filing or for withdrawing the objection to the adjudicator's neutrality affirmance.

27-10-113.

A result-oriented adjudication is an adjudication by an adjudicator who has adjudicated with the appearance of undermined neutrality.

27-10-114.

(a) Only a holding of a court crafted by principled decision-making adjudication methods is considered binding precedent in this state.

(b) Opinions of courts by which holdings of courts are published shall include no dicta.

(c) Every fact referenced in a holding, or an opinion of a court shall cite to the page and paragraph in the record or the record on appeal where the referenced fact appears.

(d) If a holding or an opinion refers to a fact without a citation, the fact must be deleted from the holding or opinion before the holding or opinion is delivered to the litigants.

(e) If a holding or an opinion refers to a fact with a citation and, on examination of the cited page and paragraph, the fact does not appear on the page and paragraph, the fact must be treated as nonexistent by all reviewing courts.

(f) Because appellate courts are not fact-finding courts, statements of fact appearing in appellate court opinions and holdings must not be cited as evidence that the fact stated exists.

(g) Where a subsequent appellate court opinion or holding turns on the existence or nonexistence of a fact, the only source by which it is determinable whether the fact exists is the record on appeal in the case under review.

(h) Unless a case is published in the official reporter of Tennessee cases, the case has no value as either binding or persuasive precedent as to what is the rule of law in Tennessee and the case must not be cited as authority in any opinion or holding of a court.

(i) Unless a case is published in the official reporter of Tennessee cases, the case must not be cited by a litigant, including appellees and appellants, in briefs or memoranda of law as either binding or persuasive precedent as to what is the rule of law in Tennessee.

(j) After July 1, 2022, all opinions and holdings of the court of appeals and the court of criminal appeals must be published in the official reporter of Tennessee cases and, thereby, be and become binding precedent stating the rule of law in Tennessee unless reheard by a court of appeals or the court of criminal appeals or reversed by the Tennessee supreme court or the United States supreme court.

(k) Court of Appeals Rule 10 and Court of Criminal Appeals Rule 20 are rendered null and void.

27-10-115.

(a) When a case presents an issue of first impression in Tennessee, the trial or appellate court where the case is pending shall file a document titled "first impression memorandum" explaining what the issue is and why the court has concluded that the issue is an issue of first impression.

(b) When a case presents an issue where existing Tennessee precedent includes conflicting or otherwise inconsistent rule of law on an issue, the trial or appellate court where the case is pending shall file a document titled "inconsistent precedent memorandum" explaining what the issue is and why the court has concluded that there is conflicting or otherwise inconsistent on point rule of law.

(c) A first impression memorandum or inconsistent precedent memorandum, shall be filed within two (2) business days in the court where the assigned case is pending, and the clerk of the court shall deliver the memorandum to the clerk of the Tennessee supreme court for filing and circulation to the justices of the supreme court.

(d) The justices of the Tennessee supreme court shall review the memorandum and render a published opinion on whether the issue was an issue of first impression or an inconsistent precedent and, if so, what the Tennessee rule of law is on the issue of first impression or inconsistent precedent.

(e) After the Tennessee supreme court publishes a review of the first impression memorandum or inconsistent precedent memorandum, the case in the lower court shall be continued and concluded, in the regular course, in accord with the supreme court's opinion.

(f) The Tennessee supreme court's opinion after review of a first impression memorandum or inconsistent precedent memorandum, is the rule of law in Tennessee on the issue in question.

27-10-116.

(a) An order of a trial court dismissing a case for failure to state a claim on which relief can be granted and affirmance of such a trial court order is highly disfavored.

(b) An order of a trial court dismissing a case for failure to state a claim on which relief can be granted and affirmance of such a trial court order is governed, exclusively, by the rules of law stated in *Conley v. Gibson*, 355 U.S. 41 (1957), unenhanced or unmitigated by precedents published since originally published on November 18, 1957, and *Ladd v. Roane Hosiery, Inc.*, 556 S.W.2d 758 (Tenn. 1977), unenhanced or unmitigated by precedents published since originally published on October 10, 1977.

(c) An order of a trial court dismissing a case by application of the doctrine of res judicata and affirmance of such a trial court order is disfavored.

(d) An order of a trial court dismissing a case by application of the doctrine of res judicata and affirmance or reversal of such a trial court order is governed, exclusively, by the rules of law stated in *Shelley v. Gipson*, 400 S.W.2d 709 (Tenn. 1966), as originally published on March 2, 1966, unenhanced or unmitigated by precedents published since March 2, 1966.

(e) An order of a trial court dismissing a case by summary judgment and affirmance of such a trial court order is disfavored.

(f) An order of a trial court dismissing a case by summary judgment and affirmance or reversal of such a trial court order is governed, exclusively, by the rules of law stated in *Hannan v. Alltel Publ'g Co.*, 270 S.W.3d 1 (Tenn. 2008), as originally published on October 31, 2008, unenhanced or unmitigated by precedents published since October 31, 2008.

27-10-117.

(a) Before rendering an order or judgment in a case, all adjudicators who will participate in the adjudication of a court's order or judgment shall first reduce a proposed order or judgment of the court that each such adjudicator proposes to be the order or judgment of the court to writing and deliver the proposed order or judgment to the

litigants, providing the litigants no less than ten (10) business days to file a written critique of the adjudicator's proposed order or judgment of the court.

(b) If more than one (1) adjudicator will participate in the adjudication of a court, each participating adjudicator, without consultation or collaboration with other participating adjudicators, separately, shall file a proposed order or judgment of the court.

(c) If any litigant files a written critique of any adjudicator's proposed order or judgment, the court shall schedule an open court hearing to give each litigant opportunity to orally present argument, for no less than fifteen (15) minutes, to persuade the adjudicators what the holding of the court should be.

(d) There must be no oral argument by litigants to persuade the adjudicators what the holding of the court should be until after the adjudicators deliver to the litigants the adjudicators' proposed order or judgment of the court.

27-10-118.

(a) When a case is initiated in any court, the clerk of the court, within forty (40) days after the initiation, shall file a pro forma order of the court requiring the initiating person and any other persons who appear to participate to engage in formal mediation, in accordance with Tennessee Supreme Court Rule 31, within thirty (30) days after appearance of the first-appearing person after the initiation of the case.

(b) Until there has been mediation, as required by subsection (a), the court shall not render any orders other than the pro forma order of the court filed by the clerk of court.

(c) If, within five (5) business days after mediation begins, there has been no compromise that terminates the initiated case, the mediator shall remain engaged and, as the assigned adjudicator deems prudent based on changed circumstances, the assigned adjudicator may order a continuation of the mediation.

(d) If, after personal service or publication according to rule of law, no adverse party or non-party claimant appears to contest the claims made by the initiating party or non-party claimant within forty (40) days after personal service or publication according to rule of law, the clerk of court shall file a pro forma notice of default in favor of the initiating person.

(e) Upon the clerk of court filing the notice of default, the court shall schedule a hearing on writ of inquiry to decide, pursuant to § 27-10-117, what default judgment to render.

27-10-119.

(a) In rem cases are the favored means by which to adjudicate contradictory or variant claims of interest in a res and must be accorded an expeditious disposition consistent with the inherent jurisdiction of the court to manage the court's docket.

(b) All in rem cases are civil cases, which are unique in comparison with all other civil cases.

(c) The statute of limitation for an in rem case is three (3) months from the date a claimant initiating the in rem case states, subject to disproof by a subsequently appearing claimant with standing to state a claim of a right, title, or interest in the res, who, in a sworn complaint or petition initiating the in rem case, states explicitly, the date that the initiating claimant became knowledgeable that another person asserted a right, title, or interest contradictory to or variant from claim asserted by the initiating claimant.

(d) Jurisdiction to adjudicate in rem cases can be exercised without distinction in circuit courts and chancery courts.

(e) All in rem cases must be concluded by an adjudication of the status of the res no later than one hundred twenty (120) days after the in rem case is initiated by the filing of an in rem claim by the initiating in rem claimant, and no later than sixty (60) days after three (3) weeks' notice by publication of the fact that the in rem case was filed and pending.

(f) If for reasons beyond the control of the adjudicator, the in rem case is not fully adjudicated within one hundred twenty (120) days after being initiated, the AOC shall arrange for a special judge to adjudicate the status of the res to which the in rem jurisdiction is attached within one hundred seventy (170) days from the day the in rem case was initiated.

(g) On the day the in rem court renders an adjudication of the status of the res to which the court's in rem jurisdiction is attached, the clerk of court shall make a minute entry in the minutes of the court and enter the minute entry in the record of the case.

(h) Forty-five (45) days after the minute entry noting the rendering of the judgment on the status of the res, the in rem jurisdiction of the court adjudicating the status of the res must detach, as a matter of law over which the adjudicating court has no control.

(i) When the adjudicating court's in rem jurisdiction detaches, pursuant to subsection (h), the adjudicating court has no jurisdiction in the in rem case and the in rem case is final and closed.

(j) There are no adversarial parties in an in rem case.

(k) An in rem case must not be combined with an in personam case by assigning the same docket number to the in rem case and the in personam case.

(l) An in rem case must not be combined with an in personam case for joint adjudication or joint trial.

(m) In rem cases pending simultaneously with a related in personam case must be fully adjudicated before disposition of the related in personam case.

(n) A res has no right to a trial by jury.

(o) Claimants with standing to assert a claim of interest in a res have no right to a trial by jury.

(p) The status of a res is a question of law.

(q) A court adjudicating an in rem case has no jurisdiction to order any human person or any entity-person to do or not to do anything, except as is necessary to exercise the inherent power of the court to maintain order of the court and control of the court's docket.

(r) The in rem jurisdiction of a court attaches to a res without the issuance of any court process and is beyond the control of the in rem court to prevent.

(s) The in rem jurisdiction of a court attaches to a res, exclusively, by the common law rule which, as a pure matter of law, places the res in an in rem case in the custody of the law the instant the in rem case is initiated to preserve the status quo of the res until the in rem court adjudicates the status of the res.

(t) When the in rem jurisdiction of a court attaches to the res, the in rem court is prohibited from detaching the jurisdiction attached to the res except by rendering an adjudication of the status of the res.

(u) Without exception, a court with jurisdiction attached to a res has no subject matter jurisdiction or authority of any kind to render any order or judgment other than an order or judgment which adjudicates the status of the res.

(v) All persons who have a demonstrable claim of interest in the res have standing to appear in an in rem case and state the claim directly to the court, as the court sees fit and without adversarial proceedings as in in personam cases.

(w) All persons who qualify, by a demonstrable claim of interest in the res, may appear in an in rem case, if, within twenty (20) business days after the court's in rem jurisdiction attaches to the res, such persons appear to assert a claim, such persons are claimants, only, and are not parties to whom the court's in personam jurisdiction attaches.

(x) A court exercising in rem jurisdiction attached to a res assumes plenary control of the res, to the exclusion of all other courts and all other persons and all other

bodies politic of all kinds, for the purpose of preserving the status quo of the res until the court adjudicates the status of the res.

(y) Any court or adjudicator who attempts to interfere with the exclusive jurisdiction of a court with jurisdiction attached to a res, has no subject matter jurisdiction to interfere with the status quo of the res and is automatically enjoined by the court exercising in rem jurisdiction attached to the res.

(z) The rendered judgment of a court exercising in rem jurisdiction attached to a res preempts, bars, and precludes the jurisdiction of all other trial courts, thereafter, from adjudicating in any way that might interfere with the status of the res adjudged by the trial court which first attached in rem jurisdiction to the res.

27-10-120.

Because it is impossible for an adjudicator with an appearance of an undermined neutrality to conduct a fair trial, an adjudication by an adjudicator with an appearance of undermined neutrality is, per se, a violation of all litigants' substantive due process right to a fair trial. Such an adjudication is not considered an order or a judgment of a court, but is coram non iudice without any means by which to be redeemed as coram iudice.

27-10-121.

An adjudicator who knowingly adjudicates with an appearance of undermined neutrality, irrespective of the merit or lack of merit of the adjudication, engages in a non-judicial act and, thereby, waives and surrenders all protection otherwise afforded the adjudicator by the doctrine of judicial immunity.

27-10-122.

Provoked or unprovoked intemperance, in writing or orally, on the part of an adjudicator, in the course of adjudicating, automatically disqualifies the adjudicator as an adjudicator of the assigned case.

27-10-123.

(a) Except when a written notice of voluntary dismissal by nonsuit is filed or is announced in open court and followed by filing a written notice of nonsuit stating the date on which the voluntary dismissal by nonsuit was announced in open court, the effective date of the notice of voluntary dismissal by nonsuit is the moment in time when the notice of voluntary dismissal by nonsuit is filed or announced in open court and followed by filing a written notice.

(b) The clerk of the court, on the filing of a written notice of voluntary dismissal by nonsuit shall file a notice of final dismissal of the case, effective on the date the notice of voluntary dismissal by nonsuit occurred and assess the cost to the party noticing the voluntary dismissal by nonsuit.

(c) The accrual of the statute of limitations governing the date by which the case voluntarily dismissed by nonsuit must be refiled commences the day after the notice of voluntary dismissal either is filed or is announced in open court and followed by filing a written notice of nonsuit stating the date on which the voluntary dismissal by nonsuit was announced in open court.

(d) Except when there is a pending motion for summary judgment before a written notice of voluntary dismissal by nonsuit filed or announced in open court and followed by filing a written notice of nonsuit stating the date on which the voluntary dismissal by nonsuit was announced in open court, an order by an adjudicator has no bearing on the effective date of any voluntary dismissal of a case by nonsuit.

(e) All notices of voluntary dismissal by nonsuit dismiss the entire case and not merely part of a case.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2478

House Bill No. 2538*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 17-1-106(a), is amended by deleting the subsection and substituting instead the following:

(a) In addition to the qualifications provided for judges by the Constitution of Tennessee, Article VI, § 3, judges of the supreme court, court of appeals, court of criminal appeals, chancery courts, circuit courts, criminal courts, and courts exercising the jurisdiction imposed in one (1) or more of the chancery courts, circuit courts, or criminal courts shall be learned in the law, which must be evidenced by the judge:

- (1) Being authorized to practice law in the courts of this state;
- (2) Being in good standing with the board of professional responsibility;

and

(3) Not having been publicly censured or suspended or disbarred from the practice of law by the board of professional responsibility within the ten (10) years preceding the judge's term of office for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; provided, that this subdivision (a)(3) does not apply to those serving in a judicial position as of the effective date of this act.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.



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Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 2284

House Bill No. 2401*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 17-5-302(a), is amended by deleting the subsection and substituting instead:

(a) The board is authorized, on its own motion, or pursuant to the complaint of a person having reason to believe a judge is disabled, to investigate and take appropriate action, including recommendation of removal from office, in any case in which an active judge is suffering from a temporary or permanent disability, physical or mental, that would substantially interfere with the prompt, orderly, and efficient performance of the judge's duties. As used in this subsection (a), temporary or permanent disability includes, but is not limited to, substance abuse or dependency, the repeated and consistent inability to stay alert during court proceedings, impairment of cognitive abilities that render the judge unable to function effectively, and any other documented or diagnosed physical or mental behavioral condition adversely affecting the administration of justice.

SECTION 2. Tennessee Code Annotated, Section 17-5-302, is amended by adding the following subsection (b) and redesignating the current subsection (b) and subsequent subsection appropriately:

(b) As part of an investigation or at another point in the disciplinary process, the board or an investigative panel of the board may refer the matter to the Tennessee lawyers assistance program. If the referral is made and the Tennessee lawyers assistance program notifies the board in writing that the judge in the matter is



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uncooperative or has failed to comply with the recommendations issued under the program, the board may order the judge to submit to a physical or mental evaluation by an appropriately licensed healthcare provider chosen by the board. An investigative panel of the board may also order such a physical or mental evaluation if the action is taken by unanimous vote of the investigative panel and approved by the board chair. The expense of such evaluation must be borne by the board. Prior to a hearing under § 17-5-307, the examiner chosen by the board must disclose any report or opinion issued by the examiner to the judge, the judge's legal representative, the investigative panel, and the disciplinary counsel for the board.

SECTION 3. Tennessee Code Annotated, Section 17-5-303, is amended by adding the following new subsection:

(h) A complaint must be filed within one (1) year of the time that the party filing the complaint knew or reasonably should have known of the alleged misconduct. When the last episode of an alleged pattern of misconduct occurs within the one-year period, all prior acts or omissions related to the alleged pattern of misconduct may be considered, except a prior act or omission for which a complaint was filed and dismissed as unfounded or frivolous without a full investigation by the board.

SECTION 4. Tennessee Code Annotated, Section 17-5-303(c)(3), is amended by deleting the subdivision and substituting instead the following:

(3) The investigative panel shall review the disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation within fourteen (14) days of receipt of the disciplinary counsel's recommendation. The disciplinary counsel has no authority to dismiss a complaint without the review of and approval by the investigative panel, except when the complaint alleges conduct the entirety of which has been the subject of a prior complaint, is untimely, or alleges matters beyond the permissible scope of the board's inquiry.

SECTION 5. Tennessee Code Annotated, Section 17-5-201(b), is amended by adding the following as a new subdivision:

(7) Notwithstanding this subsection (b) to the contrary and subject to resignation, each member shall serve until the member's successor is duly appointed.

SECTION 6. This act takes effect July 1, 2022, the public welfare requiring it.